

preliminary operations as cleaning, washing, and grading of the marine products, though not exempt as first processing since they effect no change, would be exempt as part of first processing when done in preparation for the first processing operation described above including freezing. The same would be true with respect to the removal of the waste products resulting from the above described operations on board the fishing vessel.

§ 784.134 "Canning."

The term "canning" was defined in the legislative history of the 1949 amendments (House (Conference) Report No. 1453, 81st Cong., first session; 95 Cong. Rec. 14878, 14932-33). These amendments made the "canning" of marine products or byproducts exempt from overtime only under a separate exemption (section 13(b)(4), and subject to the minimum wage requirements of the Act (see § 784.136 *et seq.*). The same meaning will be accorded to "canning" in section 13(a)(5) as in section 13(b)(4) (see § 784.142 *et seq.*) subject, of course, to the limitations necessarily imposed by the context in which it is found. In other words, although certain operations as described in § 784.142 *et seq.* qualify as canning, they are, nevertheless, not exempt under section 13(a)(5) unless they are performed on marine products by employees of the fishing vessel at sea as an incident to, or in conjunction with the fishing operations of the vessel.

§ 784.135 "Packing."

The packing of the various named marine products at sea as an incident to, or in conjunction with, the fishing operations of the vessel is an exempt operation. The term "packing" refers to the placing of the named product in containers, such as boxes, crates, bags, and barrels. Activities such as washing, grading, sizing, and placing layers of crushed ice in the containers are deemed a part of packing when performed as an integral part of the packing operation. The packing operation may be a simple or complete and complex operation depending upon the nature of the marine product, the length of time out and the facilities aboard the vessel. Where the fishing trip is of

short duration, the packing operation may amount to no more than the simple operation, of packing the product in chipped or crushed ice in wooden boxes, as in the case of shrimp, or placing the product in wooden boxes and covering with seaweed as in the case of lobsters. Where the trips are of long duration, as for several weeks or more, packing the operations on fishing vessels with the proper equipment sometimes are integrated with first processing operations so that together these operations amount to readying the product in a marketable form. For example, in the case of shrimp, the combined operations may consist of the following series of operations—washing, grading, sizing, placing 5-pound boxes already labeled for direct marketing, placing in trays with other boxes, loading into a quick freezer locker, removing after freezing, emptying the box, glazing the contents with a spray of fresh water, replacing the box, putting them in 50-pound master cartons and finally stowing in refrigerated locker.

GENERAL CHARACTER AND SCOPE OF THE SECTION 13(a)(4) EXEMPTION

§ 784.136 "Shore" activities exempted under section 13(b)(4).

Section 13(b)(4) provides an exemption from the overtime but not from the minimum wage provisions of the Act for "any employee employed in the canning, processing, marketing, freezing, curing, storing, packing for shipment, or distributing" aquatic forms of animal and vegetable life or any byproducts thereof. Originally, all these operations were contained in the exemption provided by section 13(a)(5) but, as a result of amendments, first "canning", in 1949, and then the other operations in 1961, were transferred to section 13(b)(4). (See the discussion in §§ 784.102 to 784.105.) These activities are "shore" activities and in general have to do with the movement of the perishable aquatic products to a non-perishable state or to points of consumption (S. Rept. 145, 87th Cong., first session, p. 33).